

# Phase II Small MS4 General Permit

## Consideration of Adoption Meeting

February 5, 2013

# Acknowledgements

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# Acknowledgements

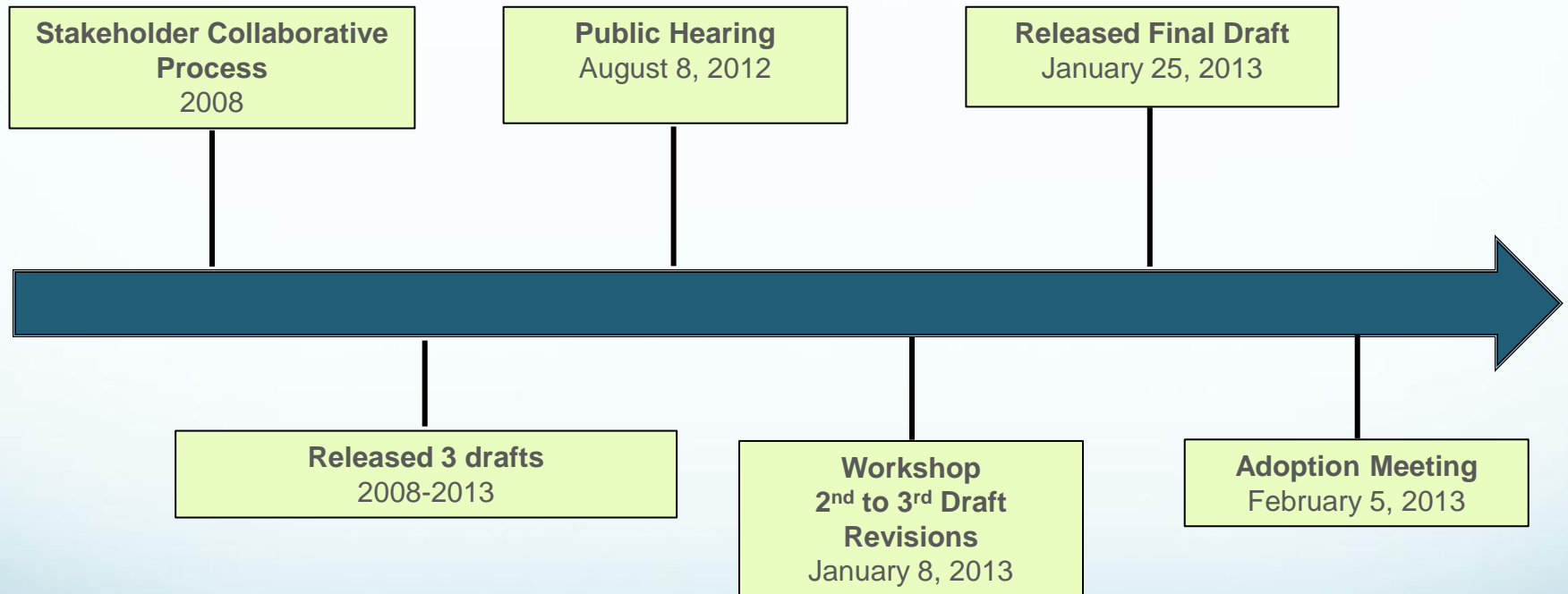
## Stakeholders

- CASQA Phase II Subcommittee
- NRDC
- Heal the Bay
- Non-Traditional Small MS4s

# Overview

- Permit Renewal Timeline
- Summary of Revisions

# Permit Renewal Timeline



# Summary of Revisions

- January 8, 2013 Workshop
- Other Revision

# Receiving Water Limitations

## Concern

- CASQA and Statewide Storm Water Coalition
  - Do not defer via reopener clause
  - Address issue in this permit
  - Based on November 20, 2012 workshop, State Board can develop resolution
  - CASQA offers support and assistance
- Environmental Panel - Language is appropriate

## No Revision

- Reopener clause

# Continued Implementation Provision E.1.b.

## Concern

- Inconsistency statewide
- Wholesale continuation of programs with no adequacy check



# Continued Implementation Provision E.1.b.

## Revision

- Deleted language
- No wholesale program continuation
- New language added to application review process
- Supports Renewal Permittees' existing BMPs
- Designed to address locally-specific storm water issues
- Permittee submits Guidance Document with summary of BMPs they propose to maintain, reduce, or cease implementation
- Cannot go below permit baseline and undergoes public review prior Regional Board EO approval

# Attachment J

## Central Coast

### Post-Construction Provisions

#### **Concern**

- Statewide inconsistency
- Untested
- Confusing
- Process

# Attachment J

## Central Coast

### Post-Construction Provisions

#### Revision

- Deleted Attachment J
- New language retains Regional Board flexibility/innovation
- Supports ANY Regional Board's work based on Assessment and Maintenance of Watershed Processes
- State and Regional Board will review progress annually
- Process approved by Regional Board following a public process

# Pending Petitions

*"Under Provisions E.12.k (also referenced in F.5.g), the Central Coast Region Small MS4s will be required to implement watershed process-based requirements developed through the Joint Effort only after those requirements have been reconsidered and approved by the Central Coast Water Board. Because the requirements cannot be imposed through existing Resolution No. R3-2012-0025 (which operated as an update to SWMPs that are no longer required under this Order), the State Water Board considers **expects** the pending petitions on that Resolution **to be** moot as of the adoption of this Order. **As part of the petition process, the State Water Board will evaluate whether the entirety of the petitions are moot following adoption of the Order.** However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board."*

# Watershed Management Zones

## Concern

- 2 years not enough time
- Approach untested, not vetted

## Revision

- Interim Hydromodification requirements
- State Board will delineate WMZs
- WMZs applied to next permit
- Reopener to incorporate WMZ criteria

# Post-Construction NRDC/Heal the Bay

## Concern

- Require on-site retention of, at minimum, the 85th percentile storm event with no discharge where feasible
- Include use of all retention practices – including infiltration, harvesting and reuse, and evapotranspiration
- Alternative designs (e.g., biofiltration) are not authorized where retention is feasible
- Must require minimum hydromodification controls
- Should allow for regional projects such as groundwater recharge centers that capture stormwater for water supply, where no additional discharge to receiving waters from development or redevelopment projects will occur

# Post-Construction

## Revision

- New language to address hydromodification concerns

*“Site design measures shall be used to reduce the amount of runoff, to the extent technically feasible, for which retention and runoff is required. Any remaining runoff from impervious DMAs may then be directed to one or bioretention facility ...”*

- Addresses groundwater recharge concerns
- Baseline peak flow matching requirement
- Alternative Post – Construction Program

# Dispute Resolutions/ Regional Board Discretion

## Concern

- Not a proactive solution/reaction-based
- Regional Boards discretion requires justification/criteria
- Request should be reviewed and approved/denied by State Water Board Executive Director
- Dispute resolution process does not preempt right to petition



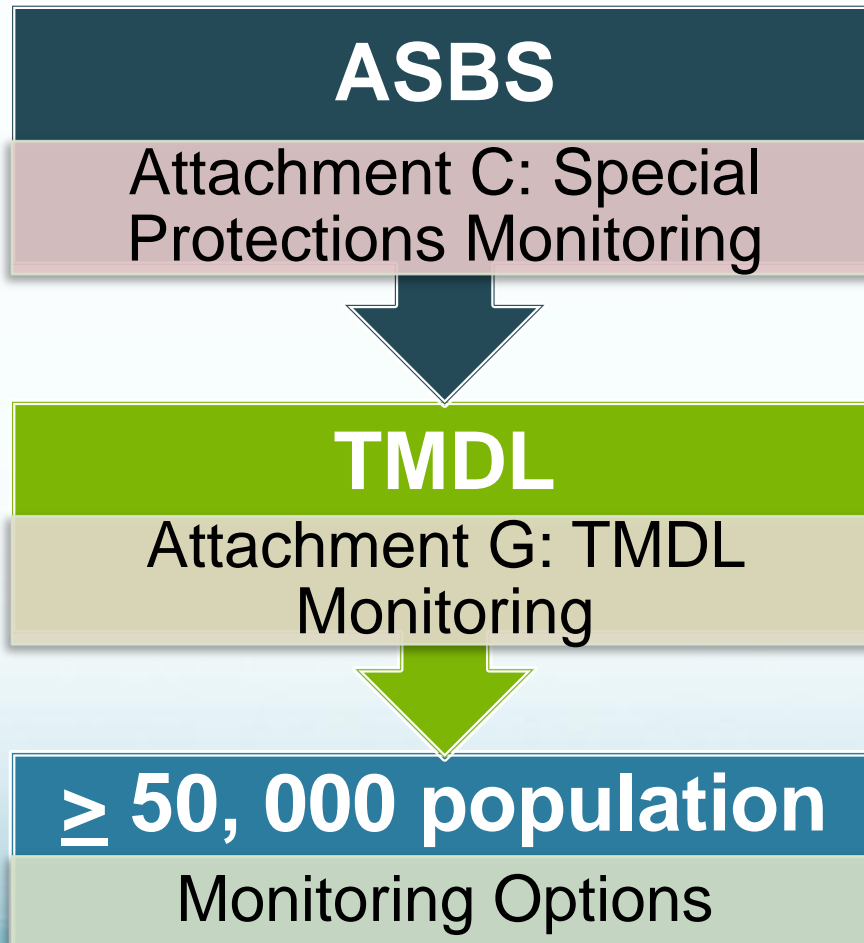
# Dispute Resolution/ Regional Board Discretion

## Revision

- Revised language

*“Determinations of the Regional Water Board Executive Officers in interpreting and implementing this permit are considered actions of the State Water Board except where the Regional Water Board itself acts or the Executive Officer acts under Water Code”*

# Water Quality Monitoring Approach



# Water Quality Monitoring NRDC/Heal the Bay

## Concern

Page 83:

(4) Traditional Small MS4 Permittees with a population greater than 50,000 listed in Attachment A ~~that are not already conducting ASBS, TMDL or 303(d) monitoring efforts~~ shall participate in one of the following monitoring programs, subject to Regional Water Board Executive Officer approval:

- E.143.a. Regional Monitoring
- E.143.b. Receiving Water Monitoring ~~Special Studies~~

~~Traditional Small MS4 Permittees that are already conducting monitoring of discharges to ASBS, TMDL, and 303(d) impaired water bodies are not required to perform additional monitoring as specified in E.13.a and E.13.b.~~

# Receiving Water Monitoring NRDC/Heal the Bay

## Concern

Page 91:

(i) **Task Description** – Within the first year of the effective date of the permit, the Permittee, ~~as an alternative to Receiving Water Monitoring~~, ~~may~~ shall develop and implement a special study monitoring program to assess and evaluate the effectiveness of projects or storm water program components elements designed to reduce specific water quality pollutants that are causing or contributing to beneficial use impairment. The special studies may include, but are not limited to:

- a) Assessment of effectiveness of habitat enhancement efforts and assessment of effectiveness of stream restoration projects
- b) Assessment of effectiveness of low impact development pilot projects, and assessment of storm water program components through pollutant load reduction quantification and/or discharge water quality monitoring.

# Water Quality Monitoring

## Revision

- Revised language
- Revised monitoring flowchart
- Emphasized regional monitoring participation
- New language

*“Permittees are encouraged to participate in a regional monitoring program in order to cost-effectively combine resources and water quality information.”*

# Water Quality Monitoring NRDC/Heal the Bay

## Concern

- Monitoring approach falls short
- TMDL only monitoring may lead to monitoring of only of one pollutant in one stream segment
- No consideration for regional watershed water quality issues

# Water Quality Monitoring NRDC/Heal the Bay

## Revision

- New Language to clarify Regional Boards can require additional suite of urban pollutants

*“Where a TMDL is limited to a single constituent within a single reach of the watershed, the Regional Water Board Executive Officer may require additional monitoring, per Water Code § 13383.”*

# Water Quality Monitoring Special Studies NRDC/Health the Bay

## Concern

No linkage to special studies and program implementation effectiveness

## Revision

*“The special studies must demonstrate the nexus between storm water program implementation, water quality protection and pollutant reduction effectiveness...”*



# Effectiveness Assessment NRDC/Heal the Bay

## Concern

Page 94:

(e) The Program Effectiveness Assessment and Improvement Plan shall ask and answer the following Management Questions for each ~~prioritized BMPs for which~~ or group of BMPs for which answers to management questions can be based on quantitative data appropriate to the question being answered.

# Effectiveness Assessment NRDC/Heal the Bay

## Revision

- New language

*“Prioritized BMPs include BMPs implemented based on pollutants of concern. Where pollutants of concern are unidentified, prioritized BMPs are based on common urban pollutants (i.e. sediment, bacteria, trash, nutrients).”*

# Illicit Discharge Detection and Elimination (IDDE)

## Concern

Requires costly industrial/commercial inspections

## Revision

- Identify illicit discharges from priority areas only
- Implement investigation procedures of illicit discharges once during permit term
- New self-certification program language

*“...Permittees require reports from authorized parties demonstrating the prevention and elimination of illicit discharges at their facilities in priority areas at least once over the length of the permit term.”*

# California Council for Environmental and Economic Balance (CEEb)

## **Concern**

- Unnecessary and inappropriate requirements on linear underground/overhead projects
- Permit failed to clarify exceptions for linear projects

# California Council for Environmental and Economic Balance (CEEb)

## Revision

- New language Finding 39
- Expand allowable discharges beyond utility vault discharges
- Hydrostatic testing
- Groundwater dewatering
- New language to clarify exceptions for linear projects

*“Unless the LUP has a discrete location that has 5,000 square feet or more of new contiguous impervious surface. When the LUP has a discrete location that has 5,000 square feet or more of newly constructed contiguous impervious surface, only that specific discrete location is subject to Section E.12.c.”*

# Additional Revision

- Not discussed at the January 8, 2013 Workshop

# Alternative Post –Construction Requirements

- New language added to encourage/allow smart development and infill projects through alternative compliance
- Post-Construction section gives “credit”
- Creates incentives to identify and implement watershed scale projects that achieve multiple-benefits